IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No : 13457 of 2004

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Between:

C. Nagaraju, S/o. Subbarayudu, Hindu,
in Publication, Sales counter infront of Sri

Krishnadevaraya Gopuram at Sri Bramarambha

Mallikarjuna Swamy Devastanam, Srisailam, Kurnool

District.

..... PETITIONER

AND

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1 The Commissioner of Endowments, Government of A.P.

Tilak Road, Hyderabad.
2 Sri Bramarambha Mallikarjuna Swamy Vari

Devastanam, rep by its Executive Officer, Srisailam,

Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus directing the 1st respondent to dispose of revision petition filed by the petitioner expeditiously by declaring the action of the 2nd Respondent in issuing proceedings RC. No. C2/4105/04, dated 21-7-2004 belatedly as arbitrary, unjust, discriminatory.

Counsel for the Petitioner: MS.I.MAAMU VANI

Counsel for the Respondents: GP FOR ENDOWMENTS

The Court made the following ORDER:

This writ petition is filed seeking a writ of mandamus directing the first respondent to dispose of the revision petition filed by the petitioner expeditiously by declaring the action of the second respondent in issuing proceedings dated 21-7-2004 as arbitrary and illegal.

The petitioner claims to be the lessee for selling photos, laminations, key chains, cassettes and handcrafts etc., in the stall in the open site of the second respondent temple. Admittedly, the lease period expired on 31-7-2004. It appears that even before the expiry of the lease period, the petitioner made a representation before the second respondent seeking extension of the lease period on certain grounds. One of the grounds is that possession of the shop was handed over to him belatedly on 15-8-2001. The second respondent having considered the representation of the petitioner passed order dated 21-7-2004 stating that the request of the petitioner for extension cannot be accepted and accordingly the petitioner was directed to handover the premises on 31-7-2004.

The petitioner filed this writ petition on 30-7-2004 stating that the order of the second respondent dated 21-7-2004 was served on him on 26-7-2004 against which he preferred revision petition before the first respondent on 29-7-2004 and sought for stay of all further proceedings of the impugned order including eviction from the sale counter and till the revision petition is considered and appropriate orders are passed, he cannot be dispossessed from the shop in question.

Having regard to the facts and circumstances of the case this court by

order dated 30-7-2004 directed the respondents not to dispossess the petitioner for a period of one week and in the meanwhile, the first respondent-Commissioner was directed to consider the interim application filed by the petitioner for stay.

On behalf of the 2nd respondent Temple a detailed counter affidavit has been filed along with a copy of the order dated 5-8-2004 passed by the Commissioner of Endowments whereunder the Commissioner having considered the application for stay filed by the petitioner dismissed the same observing that the public auction for lease of publication sales counter was initially notified by the Temple for a period of two years from 01-08-2001 to 31-07-2003 and at the request of the prospective bidders, it was extended for a period of three years upto 31-07-2004 and since the lease period has already expired and since the premises is required for the purpose of the Temple in view of the ensuing Krishna Pushkarams, the petitioner cannot claim any right for extension of lease. It was also found that there is absolutely no material to substantiate the claim of the petitioner that he has constructed the shop with his personal funds after obtaining the permission from the competent authority and therefore no grounds are made out to grant the stay as prayed for.

In the light of the counter-affidavit filed by the 2nd respondent Temple and the order passed by the first respondent Commissioner dated 05-08-2004, I do not see any justifiable reason to continue the interim order granted on 30-07-2004 any longer. I am also not inclined to keep the writ petition pending since all the contentions raised in this writ petition are the subject matter of the revision petition pending before the 1st respondent. Since the petitioner has already availed the alternative remedy available under the Statute by way of Revision, it would be appropriate for him to pursue the same and he cannot be permitted to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for the same relief.

Accordingly, the interim order granted on 30-07-2004 is vacated and the Writ Petition shall stand dismissed. No costs.

G. ROHINI, J.

6th August, 2004.

Js.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Endowments, Government of A.P.

Tilak Road, Hyderabad.

2 Sri Bramarambha Mallikarjuna Swamy Vari

Devastanam, rpe by its Executive Officer, Srisailam,

Kurnool District.

3 Two CCs to G.P. for Endowments, High Court Buildings,

Hyderabad.

4 2 CD copies